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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,590	03/13/2001	Kevin J. Dowling	CO1104/70016	1160

7590 11/06/2003
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EXAMINER

A, MINH D

ART UNIT PAPER NUMBER

2821

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/805,590

Applicant(s)

DOWLING ET AL

Examiner

Minh D A

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-- The MAILING DATE of this communication appears on th cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 51-103 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Applicant's election with traverse of claims 1-50 in Paper No. 20 is acknowledged. The traversal is on the ground(s) that inadequate support for the restriction for those groups was provided. This is not found persuasive because the power supplied to the LED in invention I could be controlled by a different method that does not require a user input as recited in invention III.

The requirement is still deemed proper and is therefore made FINAL.

Applicant is required to submit an amendment which clarifies the disclosure so that the examiner may make a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

A shortened statutory period for reply to this action is set to expire ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this letter.

2. The information disclosure statement filed 10/18/02, 3/06/03, 3/12/03 and 4/15/03 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because those references are missing. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-9, 23, 28-31, 33-34, 40, 43-44, 47-50 are rejected under 35 U.S.C. 102(b) as being unpatentable by Havel (US 6,018,237).

Regarding claims 1-2, Havel discloses a plurality of LEDs configured to produce light that includes at least two different spectra; a material configured to receive the light emitted from the plurality of LEDs, and to display a color that is a combination of the at least two different spectra; a processor (168) configured to generate at least one control signal to control power delivered to one or more of the plurality of LEDs, the processor (168) further configured to change the at least one control signal over time so as to

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produce from the device at least one dynamic lighting effect; and a user interface (117 or 1169) adapted to receive a user input to control operation of the processor (168).

the processor (168) is configured to operate in one of a plurality of modes, each mode producing at least one dynamic lighting effect according to one or more parameters.

See figures 5-6, 43 and 87, col.6, lines 65-67 to col.32, lines 1-67.

Regarding claims 3-6, Havel discloses the user interface (117 or 169) consists of a single button or the user interface consists of two buttons or an adjustable input or button or a keypad. See figure 87.

Regarding claim 7, Havel discloses the at least one dynamic lighting effect comprises at least one color-changing effect including at least one of a strobe. See figure 60, col.24, lines 1-53.

Regarding claim 8, Havel the device is configured as a consumer product. See figure 87.

Regarding claim 9, Havel discloses the device is configured as a replacement lighting device to engage mechanically and electrically with a conventional power adapter. See figure 87.

Regarding claim 23, Havel discloses the device comprising: at least one switch associated with the processor, wherein the at least one switch comprises at least one of a Hall effect switch, a motion sensing switch, a proximity detector, a sensor, a transducer, a capacitive switch, and an inductive switch, wherein the processor is configured to be responsive to the at least one switch so as to generate the at least one control signal. Seen figures 50-59, col.21, lines 3-67 to col.24, lines 1-2.

Regarding claim 28, Havel discloses a least one support for the plurality of LEDs, wherein the material is arranged with respect to the at least one support such that the light generated by the plurality of LEDs illuminates the material. See figures 5-8 and 87.

Regarding claims 29, Havel discloses at least one sensor to monitor at least one detectable condition, wherein the processor is configured to generate the at least one control signal in response to the at least one detectable condition. See figures 78-90, col.29, lines 20-67 to col.33, lines 1 to 12.

Regarding claims 30-31, Havel discloses the processor is configured to receive information from a network and process the information so as to generate the at least one control signal and at least one timing device, wherein the processor is configured to respond to the at least one timing device so as to generate timed dynamic lighting effects. See figures 78-90, col.29, lines 20-67 to col.33, lines 1 to 12.

Regarding claims 33-34, Havel discloses the material comprises a transparent material or a pattern of defects configured to redirect the light passing through or along the material. See figure 8.

Regarding claim 40, Havel discloses the device comprising at least one optic. See figure 43, col.19, lines 10-31.

Regarding claims 43-44, Havel discloses a power converter to provide power for at least one of the processor and the plurality of LEDs. See figure 22.

Regarding claims 47-50, Havel discloses the processor is configured to monitor a power supply signal to the device and to generate the at least one control signal based at least in part on the monitored power supply signal and the user interface is

configured to control at least power to the device and the user interface includes a conventional AC dimmer control to vary the power supply signal to the device, and wherein the processor generates the at least one control signal in response to operation of the conventional AC dimmer control and the processor is configured to produce from the device the at least one dynamic lighting effect in response to operation of the conventional AC dimmer control, including at least one of a dimming effect. See figures 5-6, 43 and 87, col.6, lines 65-67 to col.32, lines 1-67.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10-22, 24-27, 32, 35-42 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Havel (US 6,018,237).

Regarding claims 10-22, 24-27, 32, 35-42 and 45-46, Havel discloses the claimed invention except for a light bulb or a night light or a rope light or household product or a pen or at least part of a consumer electronic device or a glow stick or an ornamental or decorative lighting device or at least one icicle-shaped lighting device or at least part of a toy or game or a lighted ball or wearable accessory or shoe or housing

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or optic or plug or a setting of the switch of the conventional three-way socket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a light bulb or a night light or a rope light or household product or a pen or at least part of a consumer electronic device or a glow stick or an ornamental or decorative lighting device or at least one icicle-shaped lighting device or at least part of a toy or game or a lighted ball or wearable accessory or shoe or housing or optic or plug or a setting of the switch of the conventional three-way socket, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Conclusion

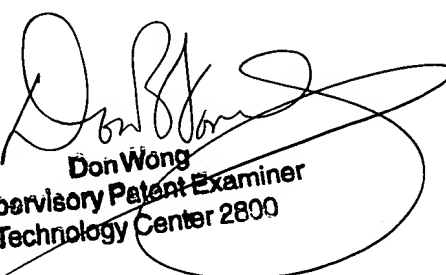
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Havel. (US 4,965,561) and Ference et al (US 5,530,322) are cited to show variable color device and multiple controller.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (703) 605-4247. The examiner can normally be reached on M-F (7:30 –4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.



Don Wong
Supervisory Patent Examiner
Technology Center 2800

Examiner

Minh A

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10/25 /03